

Office of the
CLARK COUNTY LAND USE HEARING EXAMINER

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Form DS1333

NOTICE TO PARTIES OF RECORD

PROJECT NAME: Gustafson Subdivision

CASE NUMBERS: PLD2009-00033, SEP2009-00058

The attached decision of the Land Use Hearing Examiner is final unless appealed. An appeal of any aspect of the Hearing Examiner's decision, except the SEPA determination (i.e., procedural issues), may be appealed to the Superior Court or reconsidered by the Hearing Examiner only by a party of record pursuant to Ordinance 10-19, adopted 10/27/2009 by the Board of County Commissioners. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

Mailed on: **November 23, 2009**

**GUSTAFSON SUBDIVISION
PLD2009-00033**

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GUSTAFSON SUBDIVISION
PLD2009-00033
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**BEFORE THE LAND USE HEARINGS EXAMINER
CLARK COUNTY, WASHINGTON**

REGARDING THE APPLICATION FOR A)
PRELIMINARY PLAT TO SUBDIVIDE 20 ACRES)
INTO 113 LOTS LOCATED IN THE SINGLE-)
FAMILY RESIDENTIAL (R1-6) ZONE IN THE)
UNINCORPORATED CLARK COUNTY, WA.)

FINAL ORDER

GUSTAFSON SUBDIVISION
PLD2009-00033; SEP2009-00058

APPROVED WITH CONDITIONS

INTRODUCTION

The site is a vacant 20 acre parcel proposed to be developed into a 113 lot subdivision with a network of internal access roads and small tract for underground stormwater treatment and control facilities. The development is to be constructed in three phases.

The property is flat and grass covered. A single mature walnut tree located near the west site boundary is proposed to be retained. A row of mature fir trees exists along the west site boundary. The site is bounded on the west by NE 152nd Avenue, a collector. All lots will access the internal streets. The internal street network will connect to NE 152nd Street on the west and with an existing stub of NE 105th Street on the east. The network will also be stubbed to the north boundary for circulation and connection to a future subdivision proposed for the northerly-abutting parcel.

The northerly-abutting parcel currently contains a farmstead. Abutting the site on the east are 1 ½ - 2 acre parcels in the Nehalem and Nehalem-2 subdivisions. South of the site is Misty Meadows Estates subdivision with lots averaging approximately 10,000 square feet. West of the site across 152nd Avenue is a 70 acre parcel containing a farmstead. The site is located within the Battle Ground School District, Fire District #5, and Park District #5.

Location: East side of NE 152nd Avenue approximately 300 feet north of NE 102nd Way. Parcel Number(s): Tax lot 9 (200539) located in the SW ¼ of Section 36, Township 3 North, Range 2 East of the Willamette Meridian.

Applicant: MSE Planning & Engineering, Inc.
Samuel Moss
16105 NE 89th Street
Vancouver, WA 98682

Property Owners: 152nd Investors LLC
15700 NW 31st Court
Vancouver, WA 98665

Comp Plan: Urban Low Density Residential

Applicable Laws: Clark County Code 15.12 (Fire Prevention); 40.220.010 (Single-Family Residential Districts); 40.350 (Transportation); 40.370.010 (Sewer); 40.370.020 (Water Supply); 40.380 (Stormwater and Erosion Control); 40.500.010 (Procedures); 40.510.030 (Type III Process); 40.520.010 (Legal Lot Determination); 40.540.040 (Subdivisions); 40.570 (SEPA); 40.610 & 40.620 (Impact Fees); and RCW 58.17 (State Platting Laws).

Vesting: March 5, 2009.

Public Notice: Notice of application and public hearing was mailed to the applicant, the Greater Brush Prairie Neighborhood Association, and owners of property located within 300 feet of the site on September 4, 2009. One sign was posted on the subject property and two within the vicinity on October 28, 2009.

HEARING AND RECORD

The Public Hearing on this matter was held on November 12, 2009 and the record was closed at the conclusion of the hearing. Records of all testimony received are filed at the Clark County Department of Community Development.

The Examiner has conducted an unaccompanied site visit prior to the Hearing.

Public Comments:

In response to the public notice, the county received three comment letters, as follows:

1. Received on September 4, 2009 from Southwest Clean Air Agency (Exhibit #12). The SWCAA letter cites asbestos inspection regulations that apply to demolition or renovation of existing structures. It also states that construction activities have the potential to generate dust nuisances, which are prohibited. Dust abatement measures must be employed as necessary during construction. An Air Discharge Permit is required for any proposed installation of modification that creates any new or increased source of air contaminants.

Staff Response

The proposal does not involve demolition of any structures. Dust abatement measures are required during construction. The applicant has been provided with a copy of the SWCAA letter and is separately responsible for compliance with any agency requirements. Compliance with the county's Stormwater and Erosion Control Ordinance will mitigate or prevent impacts from dust.

2. Received on September 16, 2009 from Tim and Melody McGregor, 15503 NE 103rd Drive (Exhibit #13). The McGregors, whose residential lot abuts the site on the south near the

southeast corner request that the development limit the number of fir trees removed from the row along the east site boundary, due to their aesthetic and environmental benefits.

Staff Response

Staff concurs with the McGregors that the trees should be preserved to the greatest extent possible. The applicant fails to acknowledge or address the existence of the row of fir trees. The extension of the street system to the east will require some minimal removal of trees. There is some question whether or not the trees will be located within the subdivision boundaries (refer to Finding 2 below).

3. Received on September 21, 2009 from the Washington Department of Ecology (Exhibit #14). The DOE letter states that, if contamination is discovered at the site during development, it must be reported to Ecology's Southwest Regional Office.

The letter also cites state water quality regulations and states that erosion control measures must be in place prior to any clearing, grading, or construction. It cites recommended measures to prevent contamination of surface water by erosion and sediment-laden runoff. It also advises that construction debris shall not cause water quality degradation and provides guidelines for identifying clearing limits, stabilizing denuded areas, and preventing tracking of sediment by construction vehicles. An NPDES permit is required if the project will disturb one or more acres of soil surface area and discharge stormwater to surface waters or a storm sewer. The letter provides contact and application information.

Staff Response

The applicant has been provided with a copy of the DOE letter and is separately responsible for compliance with all state and federal regulations. Compliance with the county Stormwater and Erosion Control ordinance will prevent adverse impacts off site. The county will review and monitor implementation of the applicant's erosion control plan. Erosion control measures will be monitored by county inspection staff during construction of the subdivision.

Hearing:

Alan Boguslawski, the lead County Planner on this application, introduced the site, highlighted key issues in the Staff Report and made a recommendation of approval. In doing so he testified that there are four issues of note with this application: 1) the zoning calls for average lot size of 6,000 SF, but the applicant's proposal is 5989. According to Mr. Boguslawski this may require one lot less, but the applicant later testified that elimination of the roundabout at the entrance, which was meant to preserve a large old tree, would accomplish the same function; 2) there is a fence encroachment issue on the east, north and south sides. The east encroachment will have to be resolved or addressed prior to final plat approval – see Land Use Finding 2; 3) Because there is a non-residential zoning west of 152nd Avenue, a landscape buffering is required along that avenue; 4) Because roundabouts are not expressly permitted in the Clark County Transportation Standards, in order to build one, the applicant will need a road modification to construct one. Staff position, at least for engineering issues is that any engineering feature has to be expressly allowed to be permitted.

David Bottamini PE, the County Engineer representative on this case pointed out to the shrubs or trees encroaching into the public right of way, off site, on NE 105th Street which is stubbed

to the property from the subdivision to the east of the site. CCC 40.350.030B(6)b¹ requires 20 feet of unobstructed width. This should be added as a condition of approval in section A-2. Mr. Bottamini was unresponsive to the question as to why the county should not be responsible for keeping its own right of way unobstructed.

Jeff Wriston and Valerie Uskoski testified for the applicant. Mr. Wriston indicated a desire to change the name of the subdivision to “Dunning Meadows.” It was decided that such change can take place during final plat review. He then asked how far from his site, does his purported obligation to provide off-site sight distance analysis extend. The rule as stated by the staff appears to be him to be limitless. Mr. Wriston was also concerned with the need for a road modification process for the proposed roundabout, since roundabouts are not prohibited. His primary concern was additional cost, especially under the tight economic circumstances. Ms. Uskoski also addressed some concerns of the east side neighbors offering a speed bump on 105th and a desire to preserve as many trees along the east side boundary as possible. Most of the trees are not in any building foot print, and many may not even be on the property.

They also expressed concern over the proposed condition A-5a – requiring a post-decision review if the applicant’s proposed water quality method other than the StormFilter proposed with the initial application. Ms. Uskoski argues that several years from now there may be better technology and that can be discussed during the final engineering review. For the preliminary play the applicant has only to show that water quality filtration is feasible, which they have done and they can later show that another system is feasible with the expense and delay of post-decision review.

Mr. Bottamini argued that post-decision review is necessary for the benefit of the neighbors. The applicant argued that this is not storm water plan, which will use infiltration, this is water quality, which is purely a technical question.

Joe Praeger from the subdivision to the east expressed concern about “doubling” of the traffic through his subdivision. He also expressed concern about sight distance on 157th Avenue and 99th Street.

On rebuttal, Mr. Wriston offered to provide the clearing of the roadway to provide the unobstructed 20 feet width for 105th Street and restated his previous objections.

¹ Requirements for Off-Site Access Road Improvements. All roads providing access to parcels being developed, whether such roads are to be public or private, shall at a minimum:

(1) Within the urban area have an unobstructed and paved roadway width of twenty (20) feet, except in those cases where the pre-existing road is eighteen (18) feet wide with one (1) foot wide shoulders, additional widening to the twenty (20) foot standard is not necessary. Any pre-existing roadway narrower than eighteen (18) feet with one (1) foot shoulders shall be widened to the full twenty (20) foot standard

FINDINGS

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The following issues were either raised by the applicant, addressed by staff in its report, or by agency comments on the application, and the Examiner adopts the following findings:

Hearing issues:

1. Roundabout – while the code interpretation issue was not briefed and no authority was cited for either interpretation – whether everything not prohibited is allowed or whether in order to be allowed it has to be expressly permitted by the code – the Examiner believes that for engineering issues, where safety is involved, it would be an exercise of legislative policy making to suggest that any engineering alternative which is not prohibited is allowed. It would require the engineers to codify all possible alternatives for every problem, a nigh impossible task. Now it may be possible to draft a rule which will make exceptions in certain areas, but again the Examiner would be spot legislating to come up with such a language. That is why the road modification process is appropriate to permit a roundabout solution that for some reason has not made it into the Clark County code, even though it is gaining favor with the surrounding jurisdictions.
2. StormFilter – on the issue of whether substituting one method of water filtration for another during engineering review, requires a formal post decision review, the Examiner reaches an opposite conclusion. The engineers will review any substitution for what is perhaps a mathematical question. That should be enough to protect the public interest without the need for a formal public process. For preliminary purposes we know that water quality can be achieved.
3. Off-site sight distance responsibility - proposed Condition A-2d – requires the applicant to provide sight distance analysis for the intersections of NE 105th Street and NE 157th Avenue and NE 99th and NE 157th. The applicant's issue was that the code language seems to be limitless. The Staff response was that there is a nexus of those intersections and the traffic this subdivision will generate. The related concern was that 20 feet of unobstructed roadway is required along the access route, such as 105th Street, but that roadway is already a public roadway, and so the County has allowed vegetation to encroach on their right-of-way, and again a related question is how far off-site does the applicant's responsibility travel. The Examiner finds it reasonable to find that the applicant will be contributing traffic to these intersections, based on the applicant's traffic study. The applicant can argue with the County who has the responsibility to clear the County's right of way, but the bottom line is that the code requires its clearance. Looking at the language of 40.350.030B(6)b, it refers to the access roadway – which for this purpose I find to be 105th Street up to 157th. For sight distance there is no such limitation – see Concurrency finding.
4. Additional Traffic through 105th - regardless of percentage increase in local traffic , all roads and intersections will function at levels of service the County has designated for these roads, even though additional mitigation is required along 99th Street – See Finding 12.

LAND USE:

Surrounding uses and zoning are as indicated along with those of the site in the following table:

Compass	Comp Plan	Zoning	Current Land Use
Site	Urban Low Density Residential	Single-Family Residential (R1-6)	Vacant
North	Urban Low Density Residential	Single-Family Residential (R1-6)	Agriculture/ Residential
West	Employment Center	Office Campus (OC)	Agriculture/ Residential
South	Urban Low Density Residential	Single-Family Residential (R1-10)	Residential
East	Urban Low Density Residential	Single-Family Residential (R1-10)	Residential

Finding 1 Development Standards

Table 40.220.010-2 contains the lot standards for the R1-6 zone. The minimum average lot area allowed is 6,000 square feet. Based on the individual lot areas identified on the preliminary plan, the average lot area of the proposal is only 5,989 square feet, which does not meet the minimum. Therefore, the plat must be amended to reduce the proposal by at least one lot or the roundabout eliminated in favor of traditional intersection. (see Condition D-1)

The minimum lot width and depth are 50 feet and 90 feet, respectively. Based on the lot dimension figures provided on the preliminary plat, the proposed lots meet the R1-6 dimensional standards.

The applicable setbacks for single-family detached dwellings in the R1-6 zone, in accordance with Table 40.220.010-3, are as follows:

- Front – 20 feet
- Street side – 10 feet
- Side – 5 feet
- Rear – 5 feet

The maximum lot coverage is 50% and the maximum building height is 35 feet.

Compliance with setbacks, lot coverage, and building height standards will be reviewed in conjunction with the future building permit for each lot.

Finding 2 Plat Boundaries

The applicant's existing conditions survey (Exhibit #6, Tab 7) identifies some discrepancies between the surveyed parcel boundaries and some existing fence lines. In order to prevent plat boundaries from being contested by neighboring property owners through adverse possession claims after a plat is recorded (requiring a plat alteration), it is the county's policy to address these discrepancies at the time of preliminary plat review.

Fence encroachments within plat boundaries may be resolved by one of the following means:

- The owner of the property being platted may deed the area beyond the fence to the neighboring property owner through a boundary line adjustment/quit claim deed.
- Record a document signed by the other property owners stating that they recognize that it is not their property and will not attempt to take that property through an adverse possession claim.
- If the neighbor will not accept a quit claim and will not sign an agreement to relinquish any claim, the final plat may show the gross area (to the deed line) and show the net area (to the fence or other encroached area) with the provision that the net area will meet minimum lot size and dimensions in the event of loss of the disputed area. This option should be of last resort and only after the other options fail. A plat alteration process could still be required if platted property is lost.

A fence encroachment along the south property boundary is already resolved by the fact that the southerly-abutting property has been platted to the surveyed property boundary.

The applicant states in his narrative, with regard to the fence encroachment along the north property boundary, that “both developing parties have agreed to the legal description rather than the fence line.” The applicant needs to provide a binding agreement between the property owners to that effect.

The fence encroachment along the east property boundary has not been addressed by the applicant. (see Condition B-1)

Finding 3 Phasing

The applicant proposes to construct the development in three phases, as depicted by the phase lines shown on the preliminary plat.

In accordance with CCC 40.540.040(D)(4), each phase must be an independent planning unit with safe and convenient circulation and with facilities and utilities coordinated with requirements established for the entire subdivision. This code section also requires that all road improvement requirements are assured.

Therefore, the phasing plan needs to include adequate infrastructure (such as streets, access, circulation, stormwater facilities, and utilities) to support it in its place in the sequence of construction. (see Conditions A-2.e. & A-5.d.)

Based on the foregoing discussion, staff finds that the first phase of construction needs to include the entire frontage improvements for NE 152nd Avenue because the development’s impacts to 152nd Avenue will occur with the first phase of development. (see Condition A-1.a.)

As a phased development, the approval of this application will be eligible for extensions of the expiration date in accordance with the criteria in CCC 40.500.010(B)(2). (see Condition G-1)

Finding 4 Landscaping

A 5-foot landscape buffer with landscaping meeting the L-1 standard is required along the west plat boundary in accordance with CCC Table 40.320.010-1, due to the Office Campus (OC) zoning on the adjacent parcel to the west.

Additionally, landscape plantings are also required in a planting strip within the right-of-way of NE 152nd Avenue along the site frontage, in accordance with CCC 40.320.020, because 152nd Avenue is a Collector street.

The two requirements above are separate standards – one in the right-of-way, the other on the private property. The applicant's preliminary plan proposes the required plantings within the right-of-way; however it does not show the required landscape buffer, which must be within the parcel boundaries in accordance with CCC 40.320.010(C)(6). (see Condition A-6.a.)

Because the required buffer will be located within the lot lines of Lots 1-5 & 60-62, a covenant is warranted requiring the owners of those lots to maintain the buffer. (see Conditions D-2 & C-1)

Conclusion (Land Use):

The proposed preliminary plan, subject to conditions referenced above, meets the land use requirements of the Clark County Code.

ARCHAEOLOGY:

Finding 5 Archaeological Predetermination

Much of the property is designated on the county archaeological predictive model maps as having a Moderate to High (40-100%) probability for containing artifacts, and archaeological site buffers extend onto the property. The proposal has high ground disturbance impacts. Therefore, in accordance with CCC Table 40.570.080-1, an archaeological predetermination was required.

The applicant has submitted an archaeological pre-determination to the State Department of Archaeology and Historic Preservation (DAHP) prior to submittal of the application.

The DAHP concurs with the recommendation of the pre-determination that no additional studies are necessary; however, a note on the final construction plans will require that if resources are discovered during ground disturbance, work shall stop and DAHP and the county will be contacted. (see Condition A-1.b.)

Conclusion (Archaeology):

The proposed preliminary plan, subject to the condition referenced above, meets the archaeology requirements of the Clark County Code.

TRANSPORTATION:

Finding 6 Pedestrian/bicycle Circulation

Pedestrian circulation facilities in compliance with the Americans with Disabilities Act are required in accordance with the provisions of CCC 40.350.010. The proposal meets the pedestrian circulation code.

Finding 7 Road Circulation

The proposal includes circulation to the east to existing Nehalem Subdivision and to the north to proposed Pacific Oaks Subdivision (PLD2009-00023). Circulation to the south is not feasible due to the existence of Misty Meadow Estates. The project complies with the circulation plan requirements, CCC 40.350.030(B)(2).

Finding 8 Roads

NE 152nd Avenue is classified as an “Urban Collector” (C-2). The required minimum frontage improvements include 30 feet of half-width right-of-way, 19 feet of paved half-width, curb, and detached 6-foot sidewalk. It appears the applicant has proposed the required frontage improvements.

Per Table 40.350.030-2, the intersection curb return radii at the approach to NE 152nd Avenue shall be at least 35 feet with a minimum 25-foot right-of-way (or easement) chord. The proposed curb return radii do not meet the minimum requirement. (see Condition A-2.a.)

The applicant has submitted a proposal for a roundabout at the entrance of the subdivision. The proposal has not indicated how traffic movements will function and has not submitted a required road modification. (see Condition A-2.b.)

The proposed on-site public roads are required to be consistent with standard detail #14. The minimum standards associated with an “Urban Local Residential Access” road include 46 feet of right-of-way, 28 feet of paved width, sidewalks, curbs, and gutters. The preliminary plat proposes on-site public roads that meet the minimum improvement requirements.

Per CCC 40.350.030(B)(4)(b)(1)(b), corner lot driveways shall have a minimum separation of 50 feet from the intersecting property lines, or, where this is impractical, the driveway may be located 5 feet from the property line farthest away from the intersection, or as a joint use driveway at this property line. (see Condition A-2.c.)

Finding 9 Sight Distance

The approval criteria for sight distances are found in CCC 40.350.030(B)(8). This section establishes minimum sight distances at intersections and driveways. Additional building setbacks may be required for corner lots in order to maintain adequate sight distance. The final engineering plans shall show sight distance triangles for all corner lots. Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to impede required sight distance at all proposed driveway approaches and intersections.

The applicant submitted a sight distance analysis dated July 25th, 2009, which analyzed sight distances at the site access to NE 152nd Avenue. The applicant shall also provide sight distance analysis for the intersections of NE 105th Street & NE 157th Avenue and NE 99th Street & NE 157th Avenue because the traffic study assigns trips through those intersections, as well. (see Condition A-2.d.)

Conclusion:

The proposed preliminary plan, subject to conditions referenced above and the condition discussed at the hearing, meets the transportation requirements of the Clark County Code.

TRANSPORTATION CONCURRENCY:

Finding 10 Trip Generation

The applicant has submitted a traffic study that indicates that the proposed Gustafson Subdivision will consist of 113 detached single family lots. The applicant's traffic study also estimates the weekday a.m. peak-hour trip generation at 85 new trips, while the p.m. peak-hour trip generation is estimated at 114 new trips, using nationally accepted data published by the Institute of Transportation Engineers.

The applicant has submitted a traffic study under the provisions of Clark County Code section 40.350.020(D)(1). The site is located on the east side of NE 152nd Avenue approximately 300 feet north of NE 102nd Way in Vancouver.

Finding 11 Site Access

Traffic conditions are usually expressed using a scale that quantifies the ability of a facility to meet the needs and expectations of the driver.²

Congestion, or concurrency level of service (LOS) standards are not applicable to site accesses or intersections that are not regionally significant; however, the LOS analysis provides information on the potential congestion and safety problems that may occur in the vicinity of the site.

The applicant's traffic study shows that there is an east/west road proposed that will be constructed to serve this development. This east/west road will extend from NE 152nd Avenue into the development and will serve as the primary ingress/egress for the proposed development.

The traffic study indicates that the proposed intersection of NE 152nd Avenue and the site access will have an estimated LOS C, or better, through the 2012 build-out horizon. County staff concurs with the traffic study findings.

² This scale is graded from A to F and is referred to as level-of-service (LOS). A driver who experiences an LOS A condition would expect little delay. A driver who experiences an LOS E condition would expect significant delay, but the traffic facility would be just within its capacity to serve the needs of the driver. A driver who experiences an LOS F condition would expect significant delay with traffic demand exceeding the capacity of the facility with the result being growing queues of traffic.

Finding 12 Concurrency

The proposed development is required to meet the standards established in CCC 40.350.020(G) for corridors and intersections of regional significance within 2 miles of the proposed development.³

Signalized Intersections

The applicant's study shows the two-mile radius study area, which included regionally significant signalized intersections. The county's model evaluated the operating levels, travel speeds and delay times for the regionally significant signalized intersections. This analysis showed that individual movements during peak hour traffic conditions had approach delays that did not exceed the maximum 240 seconds of delay in the build-out year. Therefore, county staff has determined that this development will comply with adopted concurrency standards for signalized intersections.

Unsignalized Intersections

The county has modeled the unsignalized intersections of regional significance in the development area. The model yielded operating levels, travel speed and delay standards, during the pm peak hours with a LOS better than the minimum allowable LOS E with the exception of NE 152nd Avenue/NE 99th Street.

NE 152nd Avenue/NE 99th Street

The intersection of NE 152nd Avenue/NE 99th Street will operate at a LOS E in the 2012 Concurrency horizon and is anticipated to meet signal warrants, thereby creating a concurrency failure, with the failing approach in the eastbound direction. The applicant's traffic study indicates that there are vehicle trips assigned to the failing approach in the NE 152nd Avenue/NE 99th Street intersection.

The applicant has submitted a letter volunteering mitigation at the intersection of NE 152nd Avenue/NE 99th Street (Exhibit #17). This mitigation has been proposed to offset the impacts of the Gustafson Subdivision development. Concurrency staff has reviewed the proposed mitigation and concurs with the applicant's recommendation of a separate eastbound right-turn lane on NE 99th Street at the intersection of NE 152nd Avenue/NE 99th Street.

³ Typically, the county's transportation model is used to determine what urban area developments are currently being reviewed, approved, or is under construction and in the vicinity of the proposed development. The traffic these developments generate is referred to as "*in-process traffic*" and will ultimately contribute to the same roadway facilities as the proposed development. This "*in-process traffic*" is used to evaluate and anticipate area growth and its impact on intersection and roadway operating levels with and without the proposed development, helping to determine if roadway mitigation necessary to reduce transportation impacts.

The "*in-process traffic*" information that can be obtained from the county's transportation model is from developments that generate 10 vehicle trips or more (10, or more, single family lots) in the PM peak hour travel time. Developments, in an urban area that have fewer than 10 vehicle trips (less than 10 single family lots) in the PM peak hour travel time do not explicitly get shown in the county's model, but are accounted for in a "*background growth rate*" (1% per year). This "*background growth rate*" is a conservative rate to capture the collective effect from all of the smaller developments in the immediate area and out of area traffic also.

The applicant shall construct/install an eastbound right-turn lane on NE 99th Street at the intersection of NE 152nd Avenue/NE 99th Street to offset the transportation impacts of the proposed Gustafson Subdivision development. The construction shall include:

- A 75-foot long, 12-foot wide eastbound right-turn lane with a taper in accordance with the MUTCD; and,
- Related signing and striping associated with the volunteered improvement.

These mitigations should be constructed and operational prior to occupancy of any building. (see Conditions A-3.a, E-1, & F-1)

Based on the findings and mitigation volunteered by the applicant, staff has determined that this development can comply with adopted Concurrency Standards for unsignalized intersections.

Concurrency Corridors

Evaluation of the concurrency corridor operating levels and travel speeds represented in the county's model of the study corridors of regional significance under County Jurisdiction yielded operating levels and travel speeds with an acceptable level of service.

Summary

The county has determined that this development will comply with adopted Concurrency Standards for corridors, signalized and unsignalized intersections under county jurisdiction with required mitigations as outlined above.

The county incurs costs to analyze the proposed development's impacts; therefore, the applicant shall reimburse the County for costs incurred in running the concurrency model. (see Condition A-3.b.)

Finding 13 Safety

Where applicable, a traffic study shall address the following safety issues:

- traffic signal warrant analysis,
- turn lane warrant analysis,
- accident analysis, and
- any other issues associated with highway safety.

Mitigation for off-site safety deficiencies may only be a condition of approval on development in accordance with CCC 40.350.030(B)(6). The code states that "nothing in this section shall be construed to preclude denial of a proposed development where off-site road conditions are inadequate to provide a minimum level of service as specified in Section 40.350.020 or a *significant* traffic or safety hazard *would be caused or materially aggravated* by the proposed development; provided, that the applicant may voluntarily agree to mitigate such direct impacts in accordance with the provisions of RCW 82.02.020."

Finding 14 Traffic Signal Warrants

The applicant's traffic study analyzed the intersection of NE 152nd Avenue and the site access for signal warrants. The applicant's study concluded that signal warrants were not met for this intersection, based on acceptable levels-of-service. Staff concurs with the applicant's findings. Therefore, no further analysis is required.

Finding 15 Turn Lane Warrants

Turn lane warrants are evaluated at unsignalized intersections to determine if a separate left or right turn lane is needed on the uncontrolled roadway.

The submitted traffic study analyzed left turn lane warrants at the site access. The study determined that a left turn lane was not warranted at the site access due to low left turning volumes. Staff concurs with the applicant's findings.

The applicant's study also analyzed the site access on NE 152nd Avenue for right turn lane warrants. The study indicated that a right turn pocket, or taper should be considered. Because of this the applicant's study evaluated the need for a right turn pocket or taper using the Washington State Department of Transportation (WSDOT) Design Manual right turn guidelines. The applicant's study presented the following findings of fact:

- Accident history, along the site frontage, for the most recent 5 year period does not exceed thresholds that would warrant further analysis;
- Sight distance at the site driveway is over 500 feet in the north and south directions;
- The proposed site access geometrics would not require vehicles to slow greatly below the speed of the through vehicles; and,
- There will be a good LOS at the site access for vehicles entering from the north or south.

Based on the guidelines for creating right-turn lanes and lack of crash history that would be indicative of safety issues at the proposed site access, county staff agrees with the traffic study findings. Therefore, staff believes that construction of a northbound right-turn pocket, or taper would not be necessary to accommodate trips generated by the proposed development.

Finding 16 Historical Accident Situation

The applicant's traffic study analyzed the accident history obtained from Clark County and WSDOT. The accident history covered a time period between 2003 and 2008. The traffic study determined that the accident rates for the study intersections, in the vicinity of the development, do not exceed thresholds that would warrant additional analysis. Staff concurs with the applicant's findings; therefore, no further analysis is required.

Conclusion:

Approval of the development application, as proposed, subject to the conditions of approval referenced above.

STORMWATER:

Finding 17 Applicability

The Stormwater and Erosion Control Ordinance (CCC 40.380) applies to development activities that result in 2,000 square feet or more of new impervious area within the urban area; the platting of single-family residential subdivisions in an urban area; and all land disturbing activities not exempted in section 40.380.030.

This project will create more than 2,000 square feet of new impervious surface, involves platting of a single-family residential subdivision, and is a land disturbing activity not

exempted in section 40.380.030. Therefore, this development shall comply with the Stormwater and Erosion Control Ordinance (CCC 40.380).

The erosion control ordinance is intended to minimize the potential for erosion and a plan is required for all projects meeting the applicability criteria listed in CCC 40.380.050. This project is subject to the erosion control ordinance.

Finding 18 Stormwater Proposal

The applicant proposes to utilize a public StormFilter (Contech Stormwater Solutions) and a public infiltration system. The applicant indicates individual private infiltration systems will be utilized on each proposed lot. Infiltration rates were measured to be 200 inches per hour and the design infiltration rate is 100 inches per hour.

Finding 19 Site Conditions and Stormwater Issues

The applicant has not committed to a proposed stormwater quality best management practice. If the applicant decides to propose a water quality facility other than a StormFilter, a post decision application will be required. (see Condition A-5.a.)

Per CCC 40.380.040(C)(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. The base of the infiltration facilities shall be a minimum of three feet above the seasonal high water or an impermeable soil layer, per CCC 40.380.040(C)(3)(c). (see Condition A-5.b.)

During construction, the infiltration rates shall be verified in the field and corresponding laboratory testing shall also be performed. (see Condition C-2)

The preliminary stormwater report identifies a 100-year/24-hour storm precipitation depth as being 4.0 inches. The 10-year/24-hour storm event precipitation depth is 3.0 inches. In addition, the 2-year/24-hour storm event precipitation depth is identified as being 2.0 inches. Clark County isopluvial maps indicate the precipitation depths are closer to 4.8 inches, 3.5 inches, and 2.5 inches that are to be used for the 100-year, 10-year, and 2-year storms, respectively. It is anticipated that the water quantity control facility will need to increase in size to accommodate the larger storm events. (see Condition A-5.c.)

Conclusion:

The proposed preliminary stormwater plan, subject to the conditions referenced above, is feasible. Therefore, the requirements of the preliminary plan review criteria are satisfied.

FIRE PROTECTION:

Finding 20 Fire Marshal Review

This application was reviewed by Tom Scott in the Fire Marshal's Office.⁴

⁴ Tom can be reached at (360) 397-2375 x4095 or 3323. Information can be faxed to Tom at (360) 759-6063. Where there are difficulties in meeting these conditions or if additional information is required, contact Tom in the Fire Marshal's office immediately.

Finding 21 Building Construction

Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process.

Finding 22 Fire Flow

Fire flow in the amount of 1,000 gallons per minute supplied at 20 psi for 60 minutes duration is required for this application. Information from the water purveyor indicates that the required fire flow is available at the site and is estimated at 1,000 gpm.

Finding 23 Fire Hydrants

Fire hydrants are required for this application. Either the indicated number or the spacing of the fire hydrants is inadequate. Provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and such that no lot or parcel is in excess of 500 feet from a fire hydrant as measured along approved fire apparatus access roads.

Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, contact the Vancouver Fire Department at 360-759-4418 to arrange for location approval. (see Condition A-9)

Finding 24 Fire Access and Maneuvering

The roadways and maneuvering areas as indicated in the application shall meet the requirements of the Clark County Transportation Standards. (see Condition A-2)

Provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus.

Conclusion:

The proposed preliminary plan, subject to conditions referenced above, meets the fire protection requirements of the Clark County Code.

WATER & SEWER SERVICE:

Finding 25 Utilities

In accordance with CCC 40.370.010(D), the new lots are required to be connected to public water and sewer. The site is within the City of Vancouver service area for public water and sewer service. The applicant submitted current utility reviews from the city confirming that services are available to the site, and describing the connection requirements.

Prior to final plat approval, the applicant shall provide documentation from the city that water and sewer connections to the new lots have been installed and approved. (see Condition D-3)

Finding 26 Health Department

Submittal of a “Health Department Evaluation Letter” is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable “Health Department Final Approval Letter” must be submitted, the Evaluation Letter will specify the timing of when the Final Approval letter must be submitted to the county (e.g., at Final Construction Plan Review, Final Plat Review or Prior to Occupancy). The Health Department Evaluation Letter will serve as confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer. The Health Department Final Approval Letter will confirm that all existing wells and/or septic systems have been abandoned, inspected and approved by the Health Department (if applicable). (see Condition A-10)

IMPACT FEES:

Finding 27 Impact Fees

The additional residential lots created by this plat will produce impacts on schools, parks, and traffic, and are subject to School (SIF), Park (PIF), and Traffic Impact Fees (TIF) in accordance with CCC 40.610.

The site is within:

- Battle Ground School District, with a SIF of \$8,290.00 per dwelling
- Park District #5, with a PIF of \$1,799.00 per dwelling (\$1,359.00 for park acquisition / \$440 for park development).
- North Orchards subarea with a TIF of \$5,539.60 per dwelling.

Impact fees shall be paid prior to issuance of a building permit for each new lot. If a building permit application is made more than three years following the date of preliminary plat approval, the impact fees will be recalculated according to the then-current ordinance rate. (see Conditions D-4.c. & E-2)

SEPA DETERMINATION

Determination of Non-Significance (DNS). As lead agency, the county has determined that the requirements for environmental analysis, protection, and mitigation measures are adequately addressed in the development regulations and comprehensive plan adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws rules, as provided by RCW 43.21.240 and WAC 197-11-158. Our agency will not require any additional mitigation measures under SEPA. The proposal may include mitigation under applicable codes and the project review. This decision was made after review of a completed environmental checklist and other information on file with the County.

The likely SEPA determination of Non-Significance (DNS) in the Notice of Development Review Application issued on September 4, 2009 is hereby final.

DECISION

Based upon the proposed plan (identified as Exhibit #5), and the findings and conclusions stated above the Hearings Examiner **APPROVES** this request, subject to the understanding that the applicant is required to adhere to all applicable codes and laws, and is subject to the following conditions of approval:

Conditions of Approval

A	Final Construction Plan Review for Land Division Review & Approval Authority: Development Engineering
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Prior to construction, a Final Construction Plan shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

- A-1 Final Construction Plan** – The applicant shall submit and obtain County approval of a final construction plan in conformance to CCC 40.350 and the following conditions of approval:
- a. The phasing plan shall be amended to include construction of frontage improvements for the entire site frontage of NE 152nd Avenue in the first phase of construction. (see Finding 3)
 - b. Archaeology - A note shall be placed on the face of the final construction plan as follows:
"If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, all work in the vicinity shall cease and the Department of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."
(see Finding 5)
- A-2 Final Transportation Plan/On-Site** - The applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350 and the following conditions of approval:
- a. Per table 40.350.030-2, the proposed intersection curb return radii at the approach to NE 152nd Avenue shall be at least 35 feet with a minimum 25-foot right-of-way (or easement) chord. (see Finding 8)

- b. Unless of the proposed roundabout is approved by a design road modification and a post decision review, it shall be redesigned such that it becomes a standard intersection allowed by code that allows for required traffic queuing and movements. (see Finding 8)
- c. Per CCC 40.350.030(B)(4)(b)(1)(b), corner lot driveways shall have a minimum separation of 50 feet from the intersecting property lines, or, where this is impractical, the driveway may be located 5 feet from the property line farthest away from the intersection, or as a joint use driveway at this property line. (see Finding 8)
- d. The proposal shall meet the sight distance requirements in accordance with the provisions of CCC 40.350.030(B)(8). The applicant shall provide a sight distance analysis for the intersections of NE 105th Street & NE 157th Avenue and NE 99th Street & NE 157th Avenue. (see Finding 9)
- e. There shall be 20 feet of unobstructed access roadway between NE 105th Street and NE 157th Avenue in accordance with CCC 40.350.030(B)(8)(b). (Hearing)
- f. The applicant is responsible for providing all necessary transportation improvements required for each individual phase, including temporary turnarounds. (see Finding 3)

A-3 Final Transportation Plan/Off Site (Concurrency):

- a. The applicant shall submit a signing and striping design for review and approval to the Public Works Transportation Division. This design shall show signing and striping and all related features for required frontage and offsite road improvements. The offsite road improvements should include signing and striping for an eastbound right-turn lane, on NE 99th Street, at the intersection of NE 152nd Avenue/NE 99th Street. The applicant shall obtain a Work Order with Clark County to reimburse the County for the signing and striping changes needed along the frontage of this development and any offsite road improvements. (see Finding 12)
- b. The applicant shall reimburse the County for the cost of concurrency modeling incurred in determining the impact of the proposed development, in an amount not to exceed \$2,000. (see Finding 12)

A-4 Transportation:

- a. Signing and Striping Plan: The applicant shall submit a signing and striping plan and a reimbursable work order, authorizing County Road Operations to perform any signing and pavement striping required within the County right-of-way. This plan and work order shall be approved by the Department of Public Works prior to final plat or final site plan approval.
- b. Traffic Control Plan: Prior to issuance of any building or grading permits for the development site, the applicant shall obtain written approval from Clark County

Department of Public Works of the applicant's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system.

A-5 Final Stormwater Plan - The applicant shall submit and obtain County approval of a final stormwater plan designed in conformance to CCC 40.380 and the following conditions of approval:

- a. If the applicant decides to propose a water quality facility other than a StormFilter, final engineering review and approval by the County will be required. (see Finding 19)
- b. Per CCC 40.380.040(C)(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. The base of the infiltration facilities shall be at a minimum of three feet above the seasonal high water or an impermeable soil layer per CCC 40.380.040(C)(3)(c). (see Finding 19)
- c. Clark County isopleth maps indicate the precipitation depths are closer to 4.8 inches, 3.5 inches, and 2.5 inches that are to be used for the 100-year, 10-year, and 2-year storms, respectively. (see Finding 19)
- d. Each individual proposed phase shall be designed with sufficient stormwater management facilities and comply with CCC 40.380. (see Finding 3)

A-6 Final Landscape Plan - The applicant shall submit and obtain county approval of a final landscape plan consistent with the approved preliminary landscape plan in accordance with CCC 40.320 and the following conditions of approval:

- a. The final landscape plan shall provide a 5-foot landscape buffer along the inside of the west plat boundary with landscape plantings meeting the L1 standard, in accordance with CCC 40.320.010(B)(1). (see Finding 4)

A-7 Excavation and Grading - Excavation / grading shall be performed in compliance with CCC Chapter 14.07.

A-8 Erosion Control Plan - The applicant shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC 40.380.

A-9 Fire Marshal Requirements (see Finding 23):

- a. Fire hydrants are required for this application. Either the indicated number or the spacing of the fire hydrants is inadequate. Provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and such that no lot or parcel is in excess of 500 feet from a fire hydrant as measured along approved fire apparatus access roads.
- b. Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of

all fire hydrants. The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, contact the Vancouver Fire Department at 360-759-4418 to arrange for location approval.

- A-10 Health Department Review** - Submittal of a “Health Department Project Evaluation Letter” is required as part of the Final Construction Plan Review or early grading application. If the Evaluation Letter specifies that certain actions are required, the Evaluation Letter will specify the timing of when those activities must be completed (e.g., prior to Final Construction Plan Review, construction, Provisional Acceptance, Final Plat Review, building permit issuance, or occupancy), and approved by the Health Department. (see Finding 26)

B	Prior to Construction of Development Review & Approval Authority: Development Inspection
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Prior to construction, the following conditions shall be met:

- B-1** The applicant shall provide acceptable documentation to Development Services planning staff verifying that the fence encroachments along the north and east property boundaries have been resolved by one of the following means:
- The owner of the property being platted may deed the area beyond the fence to the neighboring property owner through a boundary line adjustment/quit claim deed.
 - Record a document signed by the other property owners stating that they recognize that it is not their property and will not attempt to take that property through an adverse possession claim.
 - If the neighbor will not accept a quit claim and will not sign an agreement to relinquish any claim, the final plat may show the gross area (to the deed line) and show the net area (to the fence or other encroached area) with the provision that the net area will meet minimum lot size and dimensions in the event of loss of the disputed area. This option should be of last resort and only after the other options fail. A plat alteration process could still be required if platted property is lost.
(see Finding 2)
- B-2 Pre-Construction Conference** - Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County.
- B-3 Erosion Control** - Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.
- B-4 Erosion Control** - Erosion control facilities shall not be removed without County approval.

C	Provisional Acceptance of Development Review & Approval Authority: Development Inspection
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Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/site plan and the following conditions of approval:

- C-1 Verification of the Installation of Required Landscape** – The applicant shall provide verification in accordance with Section 40.320.030(B) that the required landscape has been installed in accordance with the approved final landscape plan. (see Finding 4)
- C-2 Stormwater** – The installation of infiltration systems shall be observed and documented by an engineer licensed in the State of Washington proficient in geotechnical engineering. During the construction, the geotechnical engineer shall verify that the infiltration rates used in the final stormwater analysis are obtained at the exact locations and depths of the proposed stormwater infiltration facilities. The infiltration investigation shall include laboratory analysis based on AASHTO Specification M145. The timing of representative infiltration tests will be determined at the pre-construction conference. (See Finding 19)

D	Final Plat Review & Recording Review & Approval Authority: Development Engineering
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Prior to final plat approval and recording, the following conditions shall be met:

- D-1 Average Lot Area** – The plat shall be amended to reduce the number of proposed lots by one (1), or otherwise amended or altered as necessary to comply with the minimum average lot area standard of 6,000 square feet. (see Finding 1, Hearing)
- D-2 Landscape Covenant** – A covenant binding on Lots 1-5 & 60-62 shall be recorded with the final plat, requiring the owners of said lots to maintain landscape plantings in accordance with the approved final landscape plan within their portion of the required 5-foot landscape buffer. (see finding 4)
- D-3 Utilities** – Prior to final plat approval, water and sewer connections shall be installed by the developer and approved by the City of Vancouver. (see Finding 25)
- D-4 Developer Covenant** – A “Developer Covenant to Clark County” shall be submitted for recording to include the following:
- a. Critical Aquifer Recharge Areas: "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."
 - b. Erosion Control - "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."
 - c. Impact Fees: "In accordance with CCC 40.610, the School, Park and Traffic Impact Fees for each dwelling in this subdivision are: \$8,290.00 (Battle Ground School District), \$1,799.00 (\$1,359 - Acquisition; \$440 - Development for Park District #5), and \$5,539.60 (North Orchards TIF Subarea), respectively. The impact fees for lots on this plat shall be fixed for a period of three years, beginning

from the date of preliminary plat approval, dated _____, and expiring on _____. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedule.” (see Finding 27)

D-5 Plat Notes - The following notes shall be placed on the final plat:

- a. Mobile Homes: “In accordance with the provisions of CCC 40.260.130, mobile homes are prohibited on the lots in this plat.”
- b. Archaeological: "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."
- c. Sidewalks: "Prior to issuance of occupancy permits, sidewalks shall be constructed along all the respective lot frontages."
- d. Utilities: "An easement is hereby reserved under and upon the exterior six (6) feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior six (6) feet along the front boundary lines of all lots adjacent to public streets."
- e. Driveways: "All residential driveway approaches entering public roads are required to comply with CCC 40.350."
- f. Driveways: “No direct access is allowed to NE 152nd Avenue from any lot in this plat.”
- g. Privately Owned Stormwater Facilities: "The following party(s) is responsible for long-term maintenance of the privately owned stormwater facilities: _____."

E	Building Permits
	Review & Approval Authority: Customer Service

Prior to issuance of a building permit, the following conditions shall be met:

- E-1 Transportation (Concurrency)** – The applicant shall submit the construction drawings for the separate eastbound left and right-turn lanes on NE 99th Street at the intersection of NE 152nd Avenue/NE 99th Street for review and approval. The construction drawings shall include a 75-foot long, 12-foot wide eastbound right-turn lane with a taper, in accordance with the MUTCD, and related signing and striping associated with the volunteered improvement. (see Finding 12)

E-2 Impact Fees – The applicant shall pay impact fees as follows:

- a. \$8,290.00 per dwelling for School Impact Fees (Battle Ground School Dist.)
- b. \$1,799.00 per dwelling for Park Impact Fees (\$1,359 – Acquisition; \$440 – Development for Park District #5)
- c. \$5,539.60 per dwelling for Traffic Impact Fees (North Orchards TIF Subarea)

If the building permit application is made more than three years following the date of preliminary plat approval, the impact fees shall be recalculated according to the then-current rate. (see Finding 27)

F	Occupancy Permits Review & Approval Authority: Building
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Prior to issuance of an occupancy permit, the following conditions shall be met:

- F-1 Transportation (Concurrency)** – The applicant shall construct separate eastbound left and right-turn lanes on NE 99th Street at the intersection of NE 152nd Avenue/NE 99th Street. This construction shall include a 75-foot long, 12-foot wide eastbound right-turn lane with a taper in accordance with the MUTCD, and related signing and striping associated with the volunteered improvement, or other mitigations approved by the county. All work shall be performed unless modified by the Public Works Director. (see Finding 12)

G	Development Review Timelines & Advisory Information Review & Approval Authority: None - Advisory to Applicant
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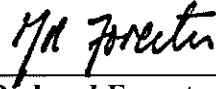
- G-1 Land Division** - Within 5 years of preliminary plat approval, a Fully Complete application for Final Plat review shall be submitted. Extensions for future phases may be granted in accordance with the criteria in CCC 40.500.010(B)(2).

- G-2 Department of Ecology Permit for Construction Stormwater** - A permit from the Department of Ecology (DOE) is required If:

- The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; **AND**
- There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the one acre threshold. This applies even if the applicant is responsible for only a small portion [less than one acre] of the larger project planned over time. The applicant shall Contact the DOE for further information.

Dated this 20th day of November, 2009



J. Richard Forester
Hearing Examiner

NOTE: *Only the decision and the condition of approval are binding on the applicant, owner or subsequent developer of the subject property because of this order. Other parts of the final order are explanatory, illustrative and/or descriptive. There may be requirements of local, state, or federal law, or requirements, which reflect the intent of the applicant, the county staff, or the Hearings Examiner, but they are not binding on the applicant as a result of the final order unless included as a condition.*

APPEAL PROCESS

An **appeal** of any aspect of the Hearing Examiner's decision, except the SEPA determination (i.e., procedural issues), may be appealed to the Superior Court or reconsidered by the Hearing Examiner only by a party of record pursuant to Ordinance 10-19, adopted 10/27/2009 by the Board of County Commissioners. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

Final Decision Attachment

For Employee Use Only - This is not part of the decision, but rather an attachment for processing purposes only.

Final Plans Required with Construction Plans	YES	NO
Final Landscape Plan:		
-On-site landscape plan	X	
-Right-of-way landscape plan*	X	
Final Wetland Plan		X
Final Habitat Plan		X

*Final right-of-way landscape plan required for projects fronting on arterial and collector streets.

Note: If final plan submittals are required, list each plan under Case Notes in Permit Plan for future reference.

Building Setbacks

Established at Preliminary Plan Review

Project Name: Gustafson Subdivision

Case Number: PLD2009-00033

The following minimum building setback requirements are based upon the zoning in place at the time, or setbacks as otherwise approved through preliminary plan review of the above listed project.

Setback Requirements by Lot

Lot Number(s)	Front Setback	Garage Setback	Rear Setback	Side Setback	Street-side Setback
1, 14, 19, 36, 37, 50, 51, 62, 67, 68, 83, 84, 89, 102, 103, 105, 109, 110,	20'	20'	5'	5'	10'
2-13, 15-18, 20-35, 38-49, 52-61, 63-66, 69-82, 85-88, 90-101, 104, 106-108, 111-113	20'	20'	5'	5'	N/A



HEARING EXAMINER EXHIBITS

APPLICATION: Gustafson Subdivision

CASE NUMBERS: PLD2009-00033, SEP2009-00058

Hearing Date: November 12, 2009

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1		CC Development Services	Aerial Map
2		CC Development Services	Vicinity Map
3		CC Development Services	Zoning Map
4		CC Development Services	Comprehensive Plan Map
5	6/30/09	Applicant: MSE Planning	Full Size Plans
6	6/30/09	Applicant: MSE Planning	Application Binder: Application Form, Pre-App Rpt, GIS Packet, Narrative, Legal Lot Det, Boundary Survey, Pre Stormwater Rpt, SEPA, Sewer Utility Ltr, Water Utility Ltr, School Dist Ltr, Arch Ltr, Traffic Rpt
7	7/10/09	CC Development Services	Development Review NOT Fully Complete Determination
8	8/20/09	CC Development Services	Development Review Fully Complete Determination
9	8/20/09	CC Development Services	REVISED Development Review Fully Complete Determination
10	9/4/09	CC Development Services	Notice of Type III Development Review App, Optional SEPA and & Public Hearing
11	9/4/09	CC Development Services	Affidavit of Mailing Public Notice
12	9/4/09	Southwest Clean Air Agency	Agency Comments
13	9/16/09	Tim & Melody McGregor	Comment letter
14	9/21/09	Washington Department of Ecology	Agency Comments
15	9/30/09	CC Development Services	Early issues correspondence.
16	10/13/09	Applicant: MSE Planning	Water Quality Stormwater Addendum
17	10/16/09	152 nd Investors LLC, Property owners	Letter regarding off site improvements

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
18	10/21/09	CC Development Services	Notice of Public Hearing
19	10/12/09	Applicant: MSE Planning	Applicants: Affidavit of Posting Site
20	10/28/09	CC Development Services	Affidavit of Posting
21	10/28/09	CC Development Services	Staff Report written by Alan Boguslawski
22	11/4/09	CC Development Services	Memo to Hearings Examiner
23	11/12/09	CC Development Services	Power Point Presentation
24	11/12/09	Applicant: MSE Planning	Version of preliminary plan without tree and roundabout.

Copies of these exhibits can be viewed at:

Department of Community Development / Planning Division
1300 Franklin Street
Vancouver, WA 98666-9810